

U.S. District Court
Southern District of Illinois (East St. Louis)
CIVIL DOCKET FOR CASE #: 3:18-cv-01276-JPG-GCS

Mabie v. United States Marshals Service et al
Assigned to: Judge J. Phil Gilbert
Referred to: Magistrate Judge Gilbert C. Sison
Case in other court: USCA-7, 18-02995
Indiana Southern, 2:18-cv-00216
Cause: 05:552 Freedom of Information Act

Date Filed: 06/15/2018
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: Federal Question

Plaintiff**William Mabie**

represented by **William Mabie**
35831-044
MARION
U.S. PENITENTIARY
P.O. BOX 1000
MARION, IL 62959
PRO SE

V.

Defendant**United States Marshal's Service**

represented by **Nicholas J. Biersbach**
Assistant U.S. Attorney – Fairview Heights
9 Executive Drive
Suite 300
Fairview Heights, IL 62208
618-628-3700
Fax: 618-622-3810
Email: nicholas.biersbach@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**Alton City Jail**

TERMINATED: 06/13/2018

Defendant**Saint Louis Metropolitan Police**

TERMINATED: 06/13/2018

| Date Filed | # | Docket Text |
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| 05/03/2018 | <u>1</u> | COMPLAINT against ALTON CITY JAIL, SAINT LOUIS METROPOLITAN POLICE, UNITED STATES MARSHALS SERVICE, filed by WILLIAM MABIE. (No fee paid with this filing) (Attachments: # <u>1</u> Envelope)(DJH) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 05/04/2018) |
| 05/03/2018 | <u>2</u> | MOTION for Leave to Proceed in forma pauperis, filed by Plaintiff WILLIAM MABIE. (Attachments: # <u>1</u> Envelope)(DJH) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 05/04/2018) |
| 05/04/2018 | <u>3</u> | MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (DJH) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 05/04/2018) |
| 05/08/2018 | <u>4</u> | ENTRY DIRECTING FURTHER PROCEEDINGS – denying <u>2</u> Motion for Leave to Proceed in forma pauperis. (See Entry.) Copy to Plaintiff via US Mail. Signed by |

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| | | Judge Robert L. Miller, Jr on 5/8/2018. (BRR) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 05/08/2018) |
| 05/16/2018 | <u>5</u> | Mail Returned as undeliverable – Not at this Institution. <u>4</u> Order sent to WILLIAM MABIE 35381–044 TERRE HAUTE U.S. PENITENTIARY Inmate Mail/Parcels P.O. BOX 33 TERRE HAUTE, IN 47808. (DW) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 05/18/2018) |
| 05/21/2018 | <u>6</u> | Updated address for WILLIAM MABIE and corrected his BOP number on our docket. Address changed from USP Terre Haute to Marion USP based on BOP website. Resent dkt 4 to WILLIAM MABIE at Marion USP. (MEH) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 05/21/2018) |
| 05/21/2018 | <u>7</u> | CONSENT to Jurisdiction to US Magistrate Judge by WILLIAM MABIE. (Attachments: # <u>1</u> Envelope)(DW) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 05/22/2018) |
| 06/05/2018 | <u>8</u> | Submission of Letter regarding Jurisdiction and address change (address has been updated), filed by Plaintiff WILLIAM MABIE, Petitioner WILLIAM MABIE. (Attachments: # <u>1</u> Envelope)(DW) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 06/08/2018) |
| 06/12/2018 | <u>9</u> | Renewed MOTION for Leave to Proceed in forma pauperis, filed by Plaintiff WILLIAM MABIE. (Attachments: # <u>1</u> Inmate Statements, # <u>2</u> Letter, # <u>3</u> Envelope)(JKS) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 06/13/2018) |
| 06/13/2018 | <u>10</u> | CLOSED TRANSFER to Southern District of Illinois, East St. Louis Division. The court notes that the filing fee issue has not been resolved in this case. The federal FOIA does not apply to state governments. Because the Alton City Jail and the St. Louis Metropolitan Police Department aren't agencies subject to FOIA, they are dismissed as defendants from this action. Signed by Judge Robert L. Miller, Jr on 6/13/2018 (dist made)(CBU) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 06/13/2018) |
| 06/13/2018 | <u>11</u> | Transfer Letter to Clerk of the Southern District of Illinois. Case transferred electronically to Southern District of Illinois, on June 13, 2018. (CBU) [Transferred from Indiana Southern on 6/15/2018.] (Entered: 06/13/2018) |
| 06/15/2018 | <u>12</u> | Case transferred in from District of Indiana Southern; Case Number 2:18-cv-00216. Original file certified copy of transfer order and docket sheet received. (Entered: 06/15/2018) |
| 06/15/2018 | <u>13</u> | Letter to plaintiff regarding case being transferred to Southern District of Illinois. (Attachments: # <u>1</u> Motion and Affidavit to Proceed in District Court Without Prepaying Fees or Costs, # <u>2</u> Consent to Magistrate Judge) (tkm) (Entered: 06/15/2018) |
| 06/26/2018 | <u>14</u> | MOTION for Leave to Proceed in forma pauperis by William Mabie. (tkm) (Entered: 06/26/2018) |
| 06/26/2018 | <u>15</u> | MOTION to Reinstate Parties by William Mabie. (tkm) (Entered: 06/26/2018) |
| 06/26/2018 | <u>16</u> | MOTION to Recuse District Judges by William Mabie. (tkm) (Entered: 06/26/2018) |
| 06/29/2018 | <u>17</u> | ORDER Directing Monthly Payments be made from Prison Account of Mabie, granting <u>14</u> MOTION for Leave to Proceed in forma pauperis filed by William Mabie. Signed by Judge J. Phil Gilbert on 6/29/2018. (tjk) (Entered: 06/29/2018) |
| 07/09/2018 | <u>18</u> | Consent Form – IFP Proceedings by William Mabie (tkm) (Entered: 07/09/2018) |
| 07/10/2018 | <u>19</u> | MEMORANDUM AND ORDER, denying <u>16</u> MOTION for Recusal filed by William Mabie. Signed by Judge J. Phil Gilbert on 7/10/2018. (jdh) (Entered: 07/10/2018) |
| 07/12/2018 | <u>20</u> | MEMORANDUM AND ORDER, re: the Court to direct issuance and service of process. Signed by Judge J. Phil Gilbert on 7/12/2018. (jdh) (Entered: 07/12/2018) |
| 07/13/2018 | <u>21</u> | Summons Issued as to United States Marshal's Service (kls3) (Entered: 07/13/2018) |

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| 07/18/2018 | <u>26</u> | RETURN OF SERVICE EXECUTED on 7/16/2018 as to U. S. Attorney's Office. (Attachments: # <u>1</u> Certified Green card for US Attorney General)(tkm) (Entered: 08/30/2018) |
| 07/26/2018 | <u>22</u> | CONSENT/NON-CONSENT TO U.S. MAGISTRATE JUDGE – sealed pending receipt from all parties. (kls3) (Entered: 07/26/2018) |
| 07/26/2018 | <u>23</u> | MOTION Seeking Reinstatement of Other Parties by William Mabie (incorporated in Doc. 22) (kls3) (Entered: 07/26/2018) |
| 07/27/2018 | <u>24</u> | USCA-7 ORDER wherein pro se Petitioner's Petition for Writ of Mandamus and Motion to Proceed In Forma Pauperis are DENIED. (kls3) (Entered: 07/27/2018) |
| 08/06/2018 | <u>25</u> | SUMMONS Returned Executed United States Marshal's Service served on 7/23/2018, answer due 9/21/2018. (kls3) (Entered: 08/06/2018) |
| 08/31/2018 | <u>27</u> | NOTICE of Appearance by Nicholas J Biersbach on behalf of United States Marshal's Service (Biersbach, Nicholas) (Entered: 08/31/2018) |
| 08/31/2018 | <u>28</u> | MOTION for Extension of Time to File Answer <i>Defendant's Motion for Extension of Time and Briefing Schedule</i> by United States Marshal's Service. (Biersbach, Nicholas) (Entered: 08/31/2018) |
| 09/04/2018 | <u>29</u> | ORDER granting <u>28</u> Motion for Extension of Time to Answer. Answer due November 16, 2018. Signed by Magistrate Judge Stephen C. Williams on 9/4/2018. (anj)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 09/04/2018) |
| 09/14/2018 | <u>30</u> | MEMORANDUM AND ORDER, denying 23 MOTION to Reinstate filed by William Mabie and <u>15</u> MOTION to Reinstate filed by William Mabie. The Court CONSTRUES Mabie's statement as a notice of appeal of this order and DIRECTS the Clerk of Court to docket that appeal as of today's date. Signed by Judge J. Phil Gilbert on 9/14/2018. (jdh) (Entered: 09/14/2018) |
| 09/14/2018 | <u>31</u> | NOTICE OF APPEAL as to <u>30</u> Memorandum & Opinion filed by William Mabie. (cjo) (Entered: 09/17/2018) |
| 09/17/2018 | <u>32</u> | Transmission of Short Record to US Court of Appeals re <u>31</u> Notice of Appeal. (cjo) (Entered: 09/17/2018) |
| 09/17/2018 | <u>33</u> | Rule 10 Letter. (cjo) (Entered: 09/17/2018) |
| 09/18/2018 | <u>34</u> | USCA Case Number 18-2995 for <u>31</u> Notice of Appeal filed by William Mabie. (Attachments: # <u>1</u> USCA-7 Notice of Case Opening)(kls3) (Entered: 09/18/2018) |
| 09/19/2018 | <u>35</u> | Edited USCA-7 Case Number 18-2995 for <u>31</u> Notice of Appeal filed by William Mabie. (Attachments: # <u>1</u> Edited – USCA-7 Notice of Case Opening)(kls3) (Entered: 09/19/2018) |
| 09/20/2018 | <u>36</u> | MEMORANDUM AND ORDER, The Court therefore CERTIFIES pursuant to Federal Rule of Appellate Procedure 24(a)(3)(A) that the appeal is not taken in good faith and that Mabie should not be allowed to appeal in forma pauperis. The Court DIRECTS the Clerk of Court to send a copy of this order to the Court of Appeals for use in connection with Appeal No. 18-2995. Signed by Judge J. Phil Gilbert on 9/20/2018. (jdh) (Entered: 09/20/2018) |
| 09/24/2018 | <u>37</u> | MOTION for Hearing, Subpoena and Status Update by William Mabie. (tkm) (Entered: 09/25/2018) |
| 09/24/2018 | <u>38</u> | OBJECTION to Continuance by William Mabie. (tkm) (Entered: 09/25/2018) |
| 09/24/2018 | <u>41</u> | USCA-7 Circuit Rule 3(b) Fee Notice. (kls3) (Entered: 09/27/2018) |
| 09/26/2018 | <u>39</u> | ORDER re <u>38</u> Objection filed by William Mabie. The Court already found that Defendant's request for additional time to respond to the complaint was taken in good faith when it granted the motion. Plaintiff's objection to the request fails to convince the Court otherwise. Signed by Magistrate Judge Stephen C. Williams on 9/26/2018. (anj)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 09/26/2018) |

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| 09/26/2018 | <u>40</u> | ORDER denying <u>37</u> Motion for Hearing. To the extent that Plaintiff seeks a status update, there is nothing currently pending in the case. Defendant's answer is due November 16, 2018. Nor has a discovery schedule been entered yet. To the extent Plaintiff seeks a subpoena and hearing, the Court finds the request premature. Plaintiff should first seek discovery from the Defendants through a properly submitted request for discovery. Signed by Magistrate Judge Stephen C. Williams on 9/26/2018. (anj)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 09/26/2018) |
| 10/01/2018 | <u>42</u> | MOTION to Expand FOIA Petition by William Mabie. (kls3) (Entered: 10/01/2018) |
| 10/11/2018 | <u>43</u> | ORDER denying <u>42</u> Motion to Expand FOIA Petition. Signed by Magistrate Judge Stephen C. Williams on 10/11/2018. (anj) (Entered: 10/11/2018) |
| 10/29/2018 | <u>44</u> | MOTION for Summary Judgment or Trial Setting by William Mabie. Responses due by 12/3/2018. (jsm2) (Entered: 10/29/2018) |
| 11/16/2018 | <u>45</u> | ANSWER to <u>1</u> Complaint, by United States Marshal's Service.(Biersbach, Nicholas) (Entered: 11/16/2018) |
| 11/16/2018 | <u>46</u> | MOTION for Summary Judgment by United States Marshal's Service. Responses due by 12/20/2018 (Attachments: # <u>1</u> Attachment 1 – Declaration of K. Day with Exhibits A & B, # <u>2</u> Attachment 2 – Declaration of E. Johnson)(Biersbach, Nicholas) (Entered: 11/16/2018) |
| 11/16/2018 | <u>47</u> | NOTICE by United States Marshal's Service <i>Notice to Pro Se Plaintiff of Consequences of Failing to Respond to Defendant's Motion for Summary Judgment</i> (Biersbach, Nicholas) (Entered: 11/16/2018) |
| 11/16/2018 | <u>48</u> | RESPONSE to <u>44</u> Motion for Summary Judgment filed by United States Marshal's Service. (Biersbach, Nicholas) (Entered: 11/16/2018) |
| 11/26/2018 | <u>49</u> | Additional Evidence by William Mabie (kls3) (Entered: 11/26/2018) |
| 11/28/2018 | <u>50</u> | RESPONSE in Opposition re <u>46</u> MOTION for Summary Judgment filed by William Mabie. (jaj) (Entered: 11/28/2018) |
| 12/06/2018 | <u>51</u> | MOTION for Resentencing and Rule 33 Motion – Additional New Evidence by William Mabie. (Attachments: # <u>1</u> Exhibit)(kls3) (Entered: 12/07/2018) |
| 12/12/2018 | <u>52</u> | RESPONSE to Motion re <u>51</u> MOTION for Resentencing filed by United States Marshal's Service. (Biersbach, Nicholas) (Entered: 12/12/2018) |
| 12/17/2018 | <u>53</u> | MANDATE of USCA-7 as to <u>31</u> Notice of Appeal filed by William Mabie, wherein appeal is DISMISSED for lack of jurisdiction (Attachments: # <u>1</u> USCA-7 Certified Copy of Final Order)(kls3) (Entered: 12/18/2018) |
| 12/21/2018 | <u>54</u> | REPLY to Response to Motion re <u>51</u> MOTION for Resentencing filed by William Mabie. (kls3) (Entered: 12/21/2018) |
| 12/21/2018 | <u>55</u> | ADDITIONAL RESPONSE in Opposition re <u>46</u> MOTION for Summary Judgment filed by William Mabie. (kls3) (Entered: 12/21/2018) |
| 12/21/2018 | <u>56</u> | ENTRY STRICKEN PER ORDER AT <u>57</u> – MOTION for Immediate Injunctive Relief Medical Necessity by William Mabie. (kls3) Modified on 12/27/2018 (jaj). (Entered: 12/21/2018) |
| 12/27/2018 | <u>57</u> | ORDER: On December 21, 2018, the Court received a "Petition for Immediate Injunctive Relief Medical Necessity" (Petition for Injunctive Relief) from Plaintiff. The Clerk of the Court docketed the pleading as a motion in the instant case (Doc. <u>56</u>). Upon review, however, it is evident that the pleading was not appropriately filed in this case. In the instant case, Plaintiff seeks enforcement of a Freedom of Information Action request he submitted to the United States Marshals Service. The Petition for Injunctive Relief pertains to Plaintiff's medical care at the U.S. Penitentiary in Marion, Illinois and names officials working at that facility as defendants. Additionally, it does not include a case number. Instead, Plaintiff states that the case number is TBA. Considering these factors, the Court DIRECTS the Clerk of the Court to open a new case directed against UNKNOWN MEDICAL STAFF OF MARION and UNITED STATES PENITENTIARY. FURTHER, the Clerk of the Court is DIRECTED to |

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| | | STRIKE <u>56</u> Petition for Injunctive Relief in the instant case. Signed by Judge J. Phil Gilbert on 12/27/2018. (dsw)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 12/27/2018) |
| 01/03/2019 | 58 | Case Reassigned to Magistrate Judge Gilbert C. Sison. Magistrate Judge Stephen C. Williams no longer assigned to the case. (jaj) (Entered: 01/03/2019) |